

**MISSISSIPPI SUPREME COURT DECISIONS – FEBRUARY 1, 2024*****SUPREME COURT - CIVIL CASES*****GIBSON V. McNATT****CIVIL - WRONGFUL DEATH**

**TORT - DEATH - WRONGFUL DEATH BENEFICIARY** - Wrongful death beneficiaries are entitled to recover for their respective claims of loss of society, companionship, and the present net cash value of the decedent's continued existence

**FAMILY LAW - TERMINATION - PARENTAL RIGHTS** - Voluntarily terminating the parental and inheritance rights of a natural parent does not allow a petitioner to re-establish his right to inherit through Miss. Code Ann. § 91-1-15

**CIVIL PROCEDURE - ERROR - ABUSE OF DISCRETION** - The appellate court determines whether the trial court applied the correct legal standard, and then considers whether the decision was one of those several reasonable ones which could have been made

**FACTS**

Anna Calhoun broke up with Benjamin Provenza and moved their daughter, Harper, to live with Benjamin's dad, Louis, in Texas. After relocating, Anna, Harper, and Louis died in a small plane crash. Twenty months before Harper died, Benjamin agreed to voluntarily terminate his parental rights submitting a witnessed and notarized affidavit in a Texas court. Based on the voluntary affidavit, a Texas court entered an order terminating the parent-child relationship between Benjamin and Harper. After Harper died, Benjamin presented himself to the Forrest County Chancery Court as Harper's father and sole wrongful-death beneficiary. Benjamin's attorney opened an estate and received letters of administration so that Benjamin could pursue a wrongful death claim against Louis's estate because he was piloting the plane when it crashed. The executrix of Louis's estate moved to intervene and rescind the letters of administration issued to Benjamin's attorney. The chancery court determined Benjamin was excluded as a wrongful death beneficiary. Furthermore, because Benjamin voluntarily relinquished any inheritance right he had, the chancery court found Miss. Code Ann. § 91-1-15 could not be used to re-establish his right to inherit after Harper died. Benjamin appealed.

**ISSUES**

Whether the chancery court (1) properly considered the Texas termination order and supporting voluntary affidavit and (2) erred by finding Benjamin could not be Harper's wrongful-death beneficiary.

**HOLDING**

(1) Because there was no reason to register the Texas termination order in Mississippi, because the chancery court was not precluded from considering the Texas termination order despite not being registered in Mississippi, and because the Texas termination order could not be collaterally attacked on jurisdictional grounds since it was entered years prior, the chancery court properly considered the Texas termination order and the supporting voluntary affidavit. (2) Because Benjamin relinquished his parental rights, and because Benjamin could not re-establish the parental rights he voluntarily relinquished, the chancery court properly found that Benjamin could not be Harper's wrongful-death beneficiary. Therefore, the Supreme Court affirmed the judgment of the Forrest County Chancery Court.

**Affirmed - 2023-CA-00007-SCT (Feb. 1, 2024)**

Opinion by Justice Maxwell

Hon. Sheila Havard Smallwood (Forrest County Chancery Court)

Wayne E. Ferrell Jr. for Appellants - Edward C. Bresee Jr., W. Wright Hill Jr., Navan Ward Jr., D. Michael Andrews, & Dana G. Taunton for Appellees  
Briefed by [Jarius Colley](#)  
Edited by [Kennedy Gerard](#) & [Ashley House](#)

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## JONES V. MISS. BAR

### CIVIL - BAR MATTERS

**BAR MATTERS - REINSTATEMENT - REQUIREMENTS** - For reinstatement to the Bar under Rule 12 of the Rules of Discipline for the Mississippi State Bar, the petitioner must: (1) state the cause or causes for suspension or disbarment; (2) give the name and current address of all persons, parties, firms, or legal entities who suffered pecuniary loss due to the improper conduct; (3) make full amends and restitution; (4) show that he has the necessary moral character for the practice of law; and (5) demonstrate the requisite legal education to be reinstated to the privilege of practicing law

**BAR MATTERS - REINSTATEMENT - REQUIREMENTS** - The Court may consider the Bar's position as to reinstatement as a factor in determining whether to grant the petition for reinstatement

### FACTS

In 2016, Angela Louise Jones used client funds for personal expenses, violating Rules 1.15(a) and 1.15(b) of the Mississippi Rules of Professional Conduct. Jones received \$175,000 of settlement funds from her client's insurance company and only transferred \$118,000 of the funds to the client, inappropriately retaining the other \$57,000. While the funds were under Jones's control, the balance of the trust account dropped below \$57,000. Approximately two years after the funds were initially transferred to Jones, her client filed an informal bar complaint. Shortly after the complaint was filed, Jones transferred the retained \$57,000 to her client. After an investigation, the Mississippi Bar suspended Jones for twelve months from the practice of law on December 15, 2020. An agreed opinion and judgment were signed by Jones, detailing certain requirements that Jones had to meet in order for readmittance to the Bar following her suspension. Jones petitioned the Supreme Court seeking reinstatement to the Mississippi Bar. The Board of Bar Commissioners voted to support Jones's petition for reinstatement.

### ISSUES

Whether Jones satisfied the jurisdictional requirements to be reinstated to the practice of law.

### HOLDING

Because Jones thoroughly and earnestly described the cause of her suspension in her petition, because she detailed the required information about the client whose pecuniary interest was harmed, because she paid the client all the money that the client was owed, because she repaid all of the Bar's expenses, because she was involved in numerous civic and charitable activities prior to and since her suspension, because she provided thirty-six letters of recommendation from other attorneys who recommended she be readmitted into the bar, because she completed the required continuing legal education hours during her suspension, because she completed the Multi-State Professional Responsibility Exam with an achieved score of ninety-six, and because the Bar supported Jones's reinstatement, Jones satisfied the jurisdictional requirements to be reinstated to the practice of law. Therefore, the Supreme Court reinstated Jones to the practice of law.

### **Reinstatement Granted - 2022-BR-01256-SCT (Feb. 1, 2024)**

En Banc Opinion by Justice Coleman

John A. Ferrell for Petitioner - Adam Bradley Kilgore & Melissa Selman Scott for Respondent

Briefed by [Dane D. Norvell](#)

Edited by [Kayla Tran](#) & [Mason Scioneaux](#)

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## PEARSON V. EUBANKS

### CIVIL - WILLS, TRUSTS, AND ESTATES

**WILLS, TRUSTS, AND ESTATES - STANDING - COLORABLE INTEREST STANDARD** - The colorable interest standard has been abandoned by the Supreme Court

**WILLS, TRUSTS, AND ESTATES - STANDING - ADVERSE IMPACT** - The Court of Appeals may still find standing in wills, trusts, and estates cases if there would be an adverse impact on the parties should a certain document be used

#### FACTS

The Court of Appeals, in finding that the will contest petitioners (“petitioners”) in this case had standing to sue, cited both the “colorable interest” and “adverse impact” standards of standing. St. Mary Catholic Church petitioned for writ of certiorari.

#### ISSUE

Whether the colorable interest standard, which the Court of Appeals cited and continued to apply, remains good law.

#### HOLDING

Because the Supreme Court did away with colorable interest standing in *Reeves v. Gunn*, because whether a party has a colorable interest in the litigation was irrelevant to the determination of whether a party had standing, because adverse impact standing remained good law, and because the Court of Appeals properly found the petitioners to have standing due the adverse impact they would experience in the will probate, the petitioners had standing to contest the will. Therefore, the Supreme Court affirmed the judgment of the Court of Appeals.

**Affirmed - 2022-CT-00011-SCT (Feb. 1, 2024)**

En Banc Opinion by Justice Chamberlin

Hon. Percy L. Lynchard Jr. (Panola County Chancery Court)

J. Hale Freeland for Appellants - William R. Sanders Jr., Ryan Revere, S. Todd Jeffreys, & Jay Westfaul for Appellees

Briefed by [Minnie Blackman](#)

Edited by [Emilee Crocker](#) & [Mason Scioneaux](#)

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## MISSISSIPPI COURT OF APPEALS DECISIONS – JANUARY 30, 2024

### COURT OF APPEALS - CIVIL CASES

## STEPHENS V. CITY OF GULFPORT

### CIVIL - WRONGFUL DEATH

**TORT LAW - MISS. TORT CLAIMS ACT - DANGEROUS CONDITION EXEMPTION** - To state a cause of action under the dangerous condition exemption of the Mississippi Tort Claims Act (MTCA), a plaintiff must show: (1) a dangerous condition, (2) on the government entity’s property, (3) which the government entity caused, or of which it had notice and time to protect or warn against, and (4) the condition was not open and obvious under Miss. Code Ann. § 11-46-9(1)(v)

**TORT LAW - MISS. TORT CLAIMS ACT - OPEN & OBVIOUS** - An “open and obvious” defect is a complete bar in a Tort Claims Act case for the failure to warn of a dangerous condition

**TORT LAW - GOVERNMENTAL ENTITY - DUTY TO WARN** - A public body, that maintains a park or recreational area adjacent to a natural body of water, is under no duty to warn those of full age of majority against the danger of swimming

### **FACTS**

Anthony Lewellyn took his wife, Arquette Stephens, and their children to visit Dedeaux Park (“the park”) in Gulfport. Harrison County (“the county”) owned the park and the City of Gulfport (“the city”) maintained and operated it. Lewellyn’s children entered the river from an area adjacent to a strip of sand abutting the park. Lewellyn drowned while trying to rescue his sixteen-year-old stepdaughter from the river. Stephens filed a wrongful death action against the county and the city under the Mississippi Tort Claims Act (“MTCA”). Stephens asserted a premises liability claim against the county and city for their alleged negligent failure to protect Lewellyn from and warn him of the dangerous condition. The trial court granted summary judgment for the county and the city. Stephens appealed.

### **ISSUES**

Whether the trial court erred in holding that the (1) county and the city were entitled to immunity under Miss. Code Ann. § 11-46-9(1)(v) and (2) dangerous condition of the river was obvious to one exercising due care.

### **HOLDING**

(1) Because no evidence showed that the county or the city did anything to create or contribute to any alleged dangerous condition existing in the river or exercised any control over the river or its condition, and because neither the county nor the city owed any duty to a civilian without evidence that the alleged dangerous condition was on its property, the trial court did not err in holding that the county and the city were entitled to immunity. (2) Because a governmental entity shall not be liable for the failure to warn of a dangerous condition that was obvious to one exercising due care, the county and the city were also entitled to summary judgment on Stephens’s failure-to-warn claims. Therefore, the Court of Appeals affirmed the judgment of the Harrison County Circuit Court.

**Affirmed - 2022-CA-01008-COA (Jan. 30, 2024)**

Opinion by Presiding Judge Carlton

Hon. Randi Peresich Mueller (Harrison County Circuit Court, First Judicial Dist.)

Rogen Chhabra & Kathryn Caroline Boyd for Appellant - Jeffrey S. Bruni & Tim C. Holleman for Appellees

Briefed by [Robert "Duncan" Jones](#)

Edited by [Kayla Tran](#) & [Ashley House](#)

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## **THOMPSON V. THOMPSON**

### **CIVIL - DOMESTIC RELATIONS**

**CIVIL PROCEDURE - FINAL JUDGMENTS - RESOLVED CLAIMS** - Miss. R. Civ. P. 54(b) requires all claims be resolved before a judgment is considered final

**FAMILY LAW - FERGUSON FACTORS - DIVIDING MATERIAL PROPERTY** - In dividing marital property, chancellors must (1) classify the parties’ assets and liabilities as marital or separate, (2) determine the value of the property, and (3) divide the marital property equitably, employing the *Ferguson* factors as guidelines in light of each parties separate property; the applicable *Ferguson* factors must be considered on the record in every case

**FAMILY LAW - MARITAL PROPERTY - FERGUSON FACTORS** - Chancellors must support their decisions applying *Ferguson* in dividing marital property within findings of fact and conclusions of law and failure to do so warrants reversal and remand

**CIVIL PROCEDURE - JUDGMENTS - POST-TRIAL MOTION** - A party is not required to file a post-trial motion in chancery court to appeal the chancery court’s judgment

**FAMILY LAW - DIVORCE - PROPERTY DIVISION** - All property division, lump sum or periodic alimony payment, and mutual obligations for child support should be considered together

## FACTS

Mark and Jerri Thompson divorced in May 2013 without reconciling. In 2020, Jerri filed a petition for divorce in the Lamar County Chancery Court alleging habitual cruel and inhuman treatment and irreconcilable differences. In December 2021, the chancery court granted Jerri a divorce. The chancery court's judgment contained an *Albright* analysis regarding child custody but did not address the division of assets. In April 2022, the parties reconvened before the chancery court for the property division issues by an agreed order. The chancery court divided the property based on equitable distribution. In ruling on various items, the chancery court did not perform a complete inventory, nor assign any value to the items divided. The *Ferguson* factors were not addressed at any time in the chancery court's bench ruling nor mentioned the testamentary trust created by Jerri's father when the parties reconvened. In September 2022, the chancery court entered the written Judgment of Property Division dividing the home equally between Mark and Jerri. However, the judgment did not require Jerri to quitclaim or otherwise convey her interest to Mark, nor did it address responsibility for the mortgage, taxes, and insurance on the home. The judgment also did not mention vehicles, checking and savings accounts, or tangible property owned by the parties. The chancery court also ordered Mark to pay \$537.59 in child support, consistent with a prior temporary order. The chancery court did not address or apply the *Ferguson* factors or make any findings of fact or conclusions of law on the relevant factors in the judgment of property division. No post-trial motions were filed. In October 2022, Mark appealed the judgment. In July 2023, Jerri filed a motion to dismiss the appeal asserting that the judgment of the property division was not a final, appealable judgment. The chancery court found in favor of Mark that the judgment was final and appealable. Jerri appealed.

## ISSUES

Whether the chancery court (1) properly denied Jerri's motion to dismiss for lack of jurisdiction; (2) failed to conduct a *Ferguson* analysis in its judgment of property division; and (3) failed to address other financial awards in its judgment of property division.

## HOLDING

(1) Because Jerri's claim for an equitable division of the marital property was resolved by the property division judgment, and because the judgment of property division was final and appealable, the chancery court properly denied Jerri's motion to dismiss for lack of jurisdiction. (2) Because the chancery court did not classify Jerri and Mark's assets as marital or separate or determine the value of specific property in the judgment of property division, because the chancery court did not mention or consider any of the *Ferguson* factors in dividing property in its judgment of property division as required, because the judgment of property division did not meet the requirements of a consent judgment, because nowhere in the judgment was there any wording that it embodied the "settlement" or "agreement" of the parties, and because no reference to a "settlement" or "agreement" or any similar terms in the chancery court's judgment was outlined in the transcript from the proceeding, the chancery court improperly failed to conduct a *Ferguson* analysis in its judgment of property division. (3) Because the chancery court failed to apply the *Ferguson* factors which mandated reversal, and because the property division was reversed, the chancery court improperly failed to address other financial awards in its judgment of property division. Therefore, the Court of Appeals reversed and remanded the judgment of the Lamar County Chancery Court.

### **Reversed & Remanded - 2022-CA-01014-COA (Jan. 30, 2024)**

Opinion by Presiding Judge Carlton

Hon. Deborah J. Gambrell (Lamar County Chancery Court)

John S. Grant IV, Brooke Trusty Grant, & Robert Gerald Barlow III for Appellant - Orvis A. Shiyou Jr. for Appellee

Briefed by [Hayward Gordon](#)

Edited by [Nivory Gordon](#) & [Ashley House](#)

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## *COURT OF APPEALS - POST-CONVICTION RELIEF*

### **MALONE V. STATE**

#### **CIVIL - POST-CONVICTION RELIEF**

##### **CRIMINAL PROCEDURE - POST-CONVICTION RELIEF - NEWLY DISCOVERED EVIDENCE -**

Pursuant to Miss. Code Ann. § 99-39-5(1)(e), a court may set aside a conviction if the movant produces evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice

**POST-CONVICTION RELIEF - NEWLY DISCOVERED EVIDENCE - STANDARD** - To prevail on a newly discovered evidence claim, the movant must show that the evidence has been discovered since the trial, that it could not have been discovered before the trial by the exercise of due diligence, that it is material to the issue, and that it is not merely cumulative, or impeaching

**POST-CONVICTION RELIEF - INEFFECTIVE ASSISTANCE OF COUNSEL - STANDARD** - To prevail on a claim of ineffective assistance of counsel, the movant in a post-conviction proceeding must show both that (1) counsel's performance was deficient and (2) the movant was prejudiced as a result

**POST-CONVICTION RELIEF - INEFFECTIVE ASSISTANCE OF COUNSEL - VOLUNTARY GUILTY PLEA** - A voluntary guilty plea waives claims of ineffective assistance of counsel, except insofar as the alleged ineffectiveness relates to the voluntariness of the giving of the guilty plea; to obtain post-conviction relief, a petitioner who pled guilty must prove that his attorney's ineffective performance proximately caused the plea and, but for counsel's errors, he would not have entered the guilty plea

##### **POST-CONVICTION RELIEF - EVIDENTIARY HEARING - SPECIFIC FINDINGS OF FACT -**

Pursuant to Miss. Code Ann. § 99-39-23(5), in cases in which a circuit court holds an evidentiary hearing on a post-conviction relief motion, the court is required to make specific findings of fact, and state expressly its conclusions of law, related to each issue presented

#### **FACTS**

In September 2017, Wallace Young was struck by a vehicle after he exited his vehicle and called 911 to report that he had run over a dead body lying in the road, Lee Bryson. The car that struck Young did not stop. Young suffered injuries to his leg and head and was transported to the hospital. Shaila Malone and her father went to the Marshall County Sheriff's Department, where Malone admitted that she had struck a pedestrian while driving the previous night. After hitting the person, Malone drove to a store parking lot and called her father to tell him that she hit "something" but "was not sure what it was." Malone later drove home and went to bed. In October 2017, a Marshall County grand jury indicted Malone for failing to stop at the scene of an accident in violation of Miss. Code Ann. § 63-3-401. The indictment alleged that she failed to stop at an accident in which she was involved, which caused the death of Bryson. In February 2018, Malone entered a negotiated guilty plea. The circuit court accepted Malone's plea, finding that it was made voluntarily and intelligently, and sentenced Malone to twenty years in the custody of the Department of Corrections with seven years to serve, thirteen years suspended, and five years of post-release supervision. After Malone began serving her sentence, she obtained new counsel and petitioned the circuit court to review and reduce her sentence. Malone argued that newly discovered evidence showed that she did not cause Bryson's death. In January 2019, the circuit court granted Malone's petition, and although the circuit court did not directly address Malone's newly discovered evidence claim, it reduced Malone's sentence to five years to serve, fifteen years suspended, and five years of post-release supervision based primarily on her parents' witness testimony. Furthermore, the circuit court ordered that after Malone had served one year, she could serve the remaining four years on house arrest. In February 2021, Malone filed a post-conviction relief ("PCR") motion alleging that her conviction should be set aside based on newly discovered evidence because her plea was not made voluntarily and intelligently, and because her plea counsel provided ineffective assistance. Malone submitted several exhibits in support of her motion, including her own affidavit, affidavits from Jamonica Street and Kenneth Wilson, a computer-aided dispatch ("CAD") report, the coroner's report, phone records, and contemporaneous witness statements obtained by the Marshall County Sheriff's Department. At an evidentiary

hearing held by the circuit court, Malone provided the following evidence: the affidavits of Wilson and Street, a written statement Wendy Jones provided to an investigator the night Young was hit, Malone’s father’s phone records, Bryson’s death certificate, a document that Malone’s counsel alleged to be Bryson’s coroner’s report, a report written by the investigator in which the coroner refused to send Bryson’s body to Jackson for an autopsy, and a ten-second video clip that allegedly showed Bryson getting into a fight outside of a convenience store that night. After the evidentiary hearing, the circuit court found that Malone failed to meet the burden of proof on her newly discovered evidence claim and denied Malone’s PCR motion. Malone appealed.

### **ISSUES**

Whether the circuit court erred by (1) rejecting Malone’s newly discovered evidence claim and (2) not addressing Malone’s ineffective assistance of counsel claim.

### **HOLDING**

(1) Because Malone failed to meet her burden to prove that the affidavits, video, phone records, death certificate, and coroner’s report could not have been discovered before her guilty plea by the exercise of due diligence, and because Malone could not show that either Bryson’s death certificate or the coroner’s report was material and not merely cumulative, the circuit court did not err by rejecting Malone’s newly discovered evidence claim. (2) Because the circuit court did not make specific findings of fact and state expressly its conclusions of law relating to each issue on Malone’s post-conviction relief motion, the circuit court erred by not addressing Malone’s ineffective assistance of counsel claim. Therefore, the Court of Appeals affirmed in part and reversed and remanded in part the judgment of the Marshall County Circuit Court.

**Affirmed in Part; Reversed & Remanded in Part - 2022-CA-00281-COA (Jan. 30, 2024)**

Opinion by Presiding Judge Wilson

Hon. Andrew K. Howorth (Marshall County Circuit Court)

Victoria Valencia Washington for Appellant - Alexandra Lebron (Att’y Gen. Office) for Appellee

Briefed by [Ramsey Thrasher](#)

Edited by [Emilee Crocker](#) & [Ashley House](#)

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## ***COURT OF APPEALS - CRIMINAL CASES***

### **FOX V. STATE**

#### **CRIMINAL - FELONY**

**CRIMINAL PROCEDURE - NEW TRIAL - SUFFICIENCY OF EVIDENCE** - For evidence to be found legally sufficient, the test is whether viewing the evidence in the light most favorable to the State and giving the State the benefit of all favorable inferences reasonably drawn from the evidence, any rational juror could have found the essential elements of the crime beyond a reasonable doubt; in order to find credible evidence sufficient for a reasonable jury, the conviction must rest upon finite evidence and not probability, and must consider all testimonies together

**CRIMINAL LAW - CULPABLE-NEGLIGENCE MANSLAUGHTER - ELEMENTS** - To prove culpable-negligence manslaughter, the State must show beyond a reasonable doubt the unlawful killing of a human being, by the culpable-negligence of another, displaying such gross negligence as to display a wanton or reckless disregard for the safety of human life, while foreseeing the victim’s death as a result of their action(s)

**CRIMINAL PROCEDURE - JURY INSTRUCTIONS - ACCIDENT** - A defendant is entitled to have jury instructions given which present his theory of the case; however, this entitlement is limited in that the court may refuse an instruction which incorrectly states the law, is covered fairly elsewhere in another instruction, or is without foundation in the evidence

## FACTS

In August 2020, Jackson Police Department officers Fox, Lampley, and Barney were indicted for second-degree murder of George Robinson, a sixty-two-year-old who died two days after an altercation with the officers. Lampley and Barney were tried jointly and later received a directed verdict in their favor. Fox was tried separately and found guilty of culpable-negligence manslaughter. During the trial, the prosecution presented two eyewitnesses who testified Fox had slammed Robinson to the ground and video of the altercation. Both the prosecution and the defense had conflicting medical expert testimony with respect to Robinson's classification of death as a homicide, whether the abrasions on Robinson's head occurred as a result of the altercation with Fox or the subsequent procedures done at the hospital, and whether Robinson's blood thinner medication and cocaine use increased the risk of intercranial bleeding. During jury instruction, the Hinds County Circuit Court refused to include a defense-proposed jury instruction for accident or misfortune. Fox was convicted of culpable-negligence manslaughter and sentenced to twenty years with fifteen years suspended, five years to serve, and five years of supervised probation. Fox appealed.

## ISSUES

Whether the trial court erred (1) in finding that the evidence was sufficient to support the verdict and (2) in refusing a jury instruction on defense of accident and misfortune.

## HOLDING

(1) Because none of the four doctors' medical expert testimonies supported a violent attack, noting that there was no evidence of being beaten or kicked or body slammed, because the medical evidence showed that there was no significant external injuries consistent with being slammed to the pavement, because a conviction of culpable-negligence manslaughter could only stand if sufficient credible evidence showed beyond a reasonable doubt that the defendant acted in such a grossly negligent manner as to show a wanton disregard or utter indifference to the safety of human life, because no credible evidence could be found to demonstrate the negligence of such a degree, because the evidence did not support a finding, beyond a reasonable doubt, that the death was a probable result of the action that should have been reasonably anticipated, and because no credible evidence was found sufficient for a reasonable jury to find the elements of culpable-negligent manslaughter beyond a reasonable doubt, the trial court erred in finding the evidence was sufficient to support a guilty verdict of culpable-negligence. (2) Because Fox's proposed instruction correctly stated the applicable law, because the proposed jury instruction was not covered by another instruction, because the proposed jury instruction had foundation in the evidence, and because a reasonable jury could conclude from the evidence Robinson's injuries were the result of accident or misfortune, the trial court erred by refusing a jury instruction on defense of accident and misfortune. Therefore, the Court of Appeals reversed the judgment of the Hinds County Circuit Court and rendered a judgment of acquittal in Fox's favor.

## DISSENT

Judge Emfinger argued that according to the instructions that they were given, the jury could have found that Fox acted unreasonably and with negligent disregard in forcibly removing Robinson from his car and causing Robinson's head to strike the pavement which resulted in injuries directly causing his death. Therefore, the evidence was legally sufficient to support the jury's verdict convicting Fox of culpable-negligence manslaughter; however, he argued that the jury was improperly instructed in several respects and the conviction should be reversed and remanded for a new trial with proper instructions.

### **Reversed & Rendered - 2022-KA-00988-COA (Jan. 30, 2024)**

En Banc Opinion by Chief Judge Barnes - Dissent by Judge Emfinger

Hon. Adrienne Annett Hooper-Wooten (Hinds County Circuit Court, First Judicial Dist.)

Merrida Coxwell, Paul McGerald Luckett, Eugene Carlos Tanner III, Charles Richard Mullins, Michael Verdier Cory Jr., Francis Starr Springer, & Courtney Denise Sanders for Appellant - Casey Bonner Farmer & Jody Edward Owens II (Att'y Gen. Office) for Appellee

Briefed by [Maggie Gardner & Taylor Davis](#)

Edited by [Doug Reynolds](#) & [Mason Scioneaux](#)

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